

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

KATHYRN AYDELOTTE,

Plaintiff,

vs.

Civil Action No. _____

**COMPLAINT AND DEMAND
FOR JURY TRIAL**

ALLIED INTERSTATE, LLC

Defendant.

COMPLAINT

INTRODUCTION

1. This is an action for damages brought by an individual consumer for Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (hereinafter "FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices.

JURISDICTION AND VENUE

2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1337. Declaratory relief is available pursuant to 28 U.S.C. § 2201 and § 2202. Venue in this District is proper in that Defendant transacts business here and the conduct complained of occurred here.

PARTIES

3. Plaintiff, Kathryn Aydelotte, is a natural person residing in Buffalo, New York.

4. Defendant, Allied Interstate, LLC (hereinafter referred to as "Allied"), is a foreign corporation organized and existing under the law of the state of Minnesota and is a debt

collection agency engaged in the business of collecting consumer debts in this state with its principal place of business located in Plymouth, Minnesota. The principal purpose of Allied is the collection of consumer debts in this state and Allied regularly attempts to collect debts alleged to be due another.

5. Defendant Allied is engaged in the collection of debts from consumers using the mail and telephone. Defendant Allied regularly attempts to collect consumer debts alleged to be due another. Defendant is a “debt collector” as defined by the FDCPA, 15 U.S.C. § 1692a(6).

FACTUAL ALLEGATIONS

6. Within the last year, Plaintiff, Kathryn Aydelotte, was called numerous times by the Defendant. Said calls were made by Defendant in an attempt to annoy, harass and badger the Plaintiff into paying an alleged consumer debt.

7. For example, Plaintiff was called by Defendant Allied 27 times in a four (4) day period. Defendant also called Plaintiff three (3) times within a two (2) hour time frame.

8. Plaintiff answered the telephone numerous times and explained to the Defendant that she experienced a loss of income and could not pay the debt at this time. Defendant responded by telling Plaintiff that they would do anything by any means possible to collect the debt and that they can take her to Court.

9. Plaintiff was afraid to answer her telephone due to the bombardment of calls which occurred nearly every hour during the day.

10. Plaintiff suffered emotional distress due to the bombardment of calls that Defendant made to Plaintiff's telephone.

11. Plaintiff became nervous and also suffered from nausea, anxiety and loss of sleep due to the same aforementioned harassing calls.

12. Due the excessive number of calls, Plaintiff would sometime cry when the phone would ring repeatedly due to the Defendant's telephone calls.

13. As a result of the aforementioned acts outlined above, Plaintiff suffered a great deal of emotional distress, nausea, stress, anxiety and loss of sleep.

FIRST CLAIM FOR RELIEF

14. Plaintiff repeats, re-alleges, and incorporates by reference paragraphs one (1) through thirteen (13) above.

15. Defendant violated the FDCPA. Defendant's violations include, but are not limited to, the following:

16. Defendant violated 15 U.S.C. § 1692 by using false representations and deceptive means to collect a debt.

17. Defendant violated 15 U.S.C § 1692e by causing a bombardment of harassing telephone calls to Plaintiff's home telephone.

18. Defendant violated 15 U.S.C § 1692e (5) by threatening to take her to Court, an action that cannot legally be taken by this particular Defendant.

WHEREFORE, Plaintiff, Kathryn Aydelotte, respectfully requests that judgment be entered against Defendant Allied for the following:

- A. Declaratory judgment that Defendants' conduct violated the FDCPA;
- B. Actual damages;

- C. Statutory damages pursuant to 15 U.S.C. § 1692k;
- D. Cost and reasonable attorney fees pursuant to 15 U.S.C. § 1692k;
- E. For such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Please take notice that Plaintiff, Kathryn Aydelotte, demands trial by jury in this action.

Dated: September 1, 2011

/s/ Jason A. Shear

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